



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/580,892	05/30/2000	Tsuyoshi Fukuda	B208-1094	2097

26272 7590 03/08/2005

COWAN LIEBOWITZ & LATMAN P.C
JOHN J TORRENTE
1133 AVE OF THE AMERICAS
1133 AVE OF THE AMERICAS
NEW YORK, NY 10017

EXAMINER

LONG, HEATHER R

ART UNIT	PAPER NUMBER
----------	--------------

2615

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/580,892

Applicant(s)

FUKUDA, TSUYOSHI

Examiner

Heather R Long

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4,5,22 and 39-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 4,5,41/4,42/4,43/4,39,41/39,42/39,43/39,45/39, and 46-49 is/are allowed.
- 6) ☒ Claim(s) 1,22,40,44,45/40,50 and 51 is/are rejected.
- 7) ☒ Claim(s) 41/40,42/40, and 43/40 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 May 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Applicant's arguments with respect to claims 1, 4, 5, 22, and 39-51 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 40, 22, and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Takayama (U.S. Patent 5,260,774).

Regarding claim **40**, Takayama an electronic camera comprising: a white balance correcting circuit (44) for correcting white balance of a picked-up image by picking up an image of an image of a first object on the basis of white balance data obtained by picking up an image of a second object (Fig. 10); a focusing circuit arranged to perform a focusing operation; and a control circuit for controlling to pick up the image of the first object by operating the focusing circuit on the basis of a first operation for providing an in-focus state, and for picking up the image of the second object by operating the focusing circuit on the basis of a second operation, different from the first operation, for providing an in-focus state (col. 1, lines 66 – col. 2, line 5). Takayama discloses that the lens are brought into a defocus state during white balancing (the first reading of the sensor),

thereby focusing is different in the second operation (the white balancing mode) than in the first operation (image taking mode) since the lens are brought into a defocus state during white balancing. However, a defocus state is still a state of focusing but at a lower level of focusing.

Regarding claim **22**, Takayama discloses all the limitations as previously discussed with respect to claim 40 including that the control circuit controls the second operation of the focusing circuit to make a determination level with which the focusing circuit determines an in-focus state lower than that used for an image picking-up operation in the first operation (it is inherent that a defocus state for the second operation is at a lower state than the in-focus state for the first operation).

Regarding claim **44**, Takayama discloses all the limitations as previously discussed with respect to claim 40 including that the time for the focusing operation on the basis of the second operation is shorter than time for the focusing operation on the basis of the first operation (it is inherent that if the second operation is performed at a lower level of focusing than the first operation then the second operation will be performed quicker than the first operation).

Regarding claim **50**, claim 50 is a method claim corresponding to the apparatus-claim 40. Therefore, claim 50 is analyzed and rejected as previously discussed with respect to claim 40.

Regarding claim **51**, claim 50 is a storage medium for storing a program corresponding to the limitations disclosed in claim 40. The steps are analyzed

and rejected as previously discussed with respect to claim 40. Furthermore, Takayama discloses a microcomputer (35) wherein the program for white balancing is stored as discussed previously with respect to claim 40.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takayama as applied to claim 40 above, and further in view of Saito et al. (U.S. Patent 5,319,449) in view of Sasakura (U.S. Patent 5,995,144).

Regarding claim 1, Takayama discloses all the limitations as previously discussed with respect to claim 40 including that the electronic camera includes a control circuit (45) that controls the operation of the focusing circuit so that the automatic focusing circuit performs a focusing operation by using the plurality of distance measuring points for picking up the image of the first object in the first operation (it is implicit that there are distance measuring points included in the auto-focusing technique in order to determine the distance from the object to the lens), and by using at least one distance measuring point and without using at least one distance measuring point in the plurality of distance measuring points for picking up the image the second object in the second operation. However,

Takayama fails to disclose a control circuit for, when picking up the image of the second object, controlling the operation of the automatic focusing circuit so that the automatic focusing circuit automatically performs a focusing operation by using at least one distance measuring point and without using at least one distance measuring point in the plurality of distance measuring points.

Referring to the Sasakura reference, Sasakura discloses that during auto-focusing if the electronic camera uses a smaller number of pixels the auto-focusing calculation time will be reduced (col. 3, lines 39-44).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined the teaching of using a smaller number of pixels during auto-focusing in order to reduce the auto-focusing time as taught by Sasakura with the white-balancing process as disclosed by Takayama in order to reduce the time it takes to white-balance the camera because by reducing the auto-focusing time it will in turn reduce the amount of time it takes to do the white balancing.

6. Claim 45/40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takayama as applied to claim 40 above, and further in view of Saito et al. (U.S. Patent 5,319,449).

Regarding claim ~~45/40~~, Takayama discloses all subject matter as disclosed in claim 4, except that the second object is white in color.

Referring to the Saito et al. reference, Saito et al. discloses a white balancing system that uses an image of a white object because an object in front of a red or green background results in color failure (col. 58-61).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have photographed a white object as taught by Saito et al. in the white balancing system of Takayama in order to provide proper white balance control.

Allowable Subject Matter

7. Claims 41/40, 42/40, and 43/40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter: Prior art fails to teach or fairly suggest an electronic camera, in combination with all the other elements claimed, further comprising: an operation element by which a user selects at least a first mode and a second mode; wherein the first mode is a mode in which the white balance correcting circuit corrects white balance of a picked-up image by picking up an image of the third object on the basis of white balance data corresponding to a light source, which has been beforehand prepared, and the second mode is a mode in which the white balance correcting circuit corrects the white balance of the picked-up image by picking up the image of the first object on the basis of the white balance data obtained by picking up the image of the second object, a second

control circuit for switching a screen of a display device in the electric camera to a screen for picking up an image of the second object according to selecting the second mode, wherein the screen for picking up an image of the second object is different from a screen for picking up an image of the first object (claim 41).

9. Claims 4, 5, 41/4, 42/4, 43/4, 39, 41/39, 42/39, 43/39, 45/39, and 46-49 are allowed.

10. The following is an examiner's statement of reasons for allowance: prior art fails to teach or fairly suggest an electronic camera comprising:

a. A white balance correcting device for correcting white balance of a picked-up image by picking up an image of the first object on the basis of white balance data obtained by picking up an image of the second object; a focusing circuit arranged to drive a lens, wherein the lens is used for a focusing operation; and a control circuit for controlling to pick up the image of the second object without driving the lens used for the focusing operation after operation for picking up the image of the image of the second object (claim 4).

b. A white balance correcting circuit for correcting white balance of a picked-up image by picking up an image of a first object on the basis of white balance data obtained by picking up an image of a second object; a focusing circuit arranged to perform decision of in-focus state and de-focus state; and a control circuit for controlling to pick up the image of the second object without performing decision of in-focus state and de-focus state (claim 39).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Heather R Long whose telephone number is 571-272-7368. The examiner can normally be reached on Mon. - Thurs.: 7:00 am - 4:30 pm, and every other Fri.: 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on 571-272-7950. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HRL
March 7, 2005


TUAN HO
PRIMARY EXAMINER

Application/Control Number: 09/580,892
Art Unit: 2615

Page 9